

State Procurement Office

Public Informational Meetings on  
Proposed Changes to the Administrative Rules on  
Purchases of Health and Human Services

Analysis of Comments Received

April 2, 2004

**Background:**

The current process for purchasing health and human services by state agencies is entering its sixth year. The State Procurement Office (SPO) is proposing amendments to the administrative rules to improve the process. The proposed changes fall into three areas: planning and coordination, openness in government and streamlining.

**Public Informational Meetings:**

In February and March 2004 eight informational meetings on the five major islands were conducted to present the proposed changes. Of the 135 attendees participating in the meetings, 33% were from neighbor islands, 59% were private providers of health and human services, 38% were state agency personnel and 3% were from other sectors.

This report is a summary of the proposed changes and comments received. The SPO will update this report as additional comments are received. Comments are welcome and may be added online at:

<http://www.spo.hawaii.gov>, click on 'Procurement of Health and Human Services'...'Public Informational Meetings...'

**Next Steps:**

Based on the feedback, the SPO will revise the proposed rules and make a draft available for public review before presenting it to the Procurement Policy Board.

Should you have any comments or questions, please contact:  
Mara Smith at (808) 587-4704 or [mara.smith@hawaii.gov](mailto:mara.smith@hawaii.gov) or  
Corinne Higa at (808) 587-4706 or [corinne.y.higa@hawaii.gov](mailto:corinne.y.higa@hawaii.gov).

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Proposed Amendment	Summary of Comments	Analysis
<b>Requests for information (RFI)</b> Changes from an optional to mandatory requirement. Prior to a procurement, a written RFI will be conducted. Establishes a procedure for posting the RFI and a brief summary/analysis of responses on the web in a central location. (Reference: §§3-142-202, 3-143-617, HAR)	<ul style="list-style-type: none"><li>• Strong support from private providers.</li><li>• Some state agency personnel expressed concern about adding additional duties to an already overburdened staff resulting in possible delays in delivering services.</li></ul>	<ul style="list-style-type: none"><li>• Intent of the RFI is to provide a formal process for obtaining community input.</li><li>• Many state agencies are already conducting RFIs prior to releasing major solicitations</li><li>• RFIs result in decreased likelihood of encountering problems during RFP and contracting process.</li><li>• RFI process will formalize the opportunity for providers and other community members to give input in a timely manner.</li></ul>
<b>Joint Requests for Proposals</b> Establishes a joint RFP process whereby two or more purchasing agencies may issue a joint RFP when: a) Services are substantially the same; or b) Purchasing a continuum of services for clients from the same provider or collaboration of providers is essential for continuity of service.	<ul style="list-style-type: none"><li>• Responses were overwhelmingly in support.</li><li>• One question if one state agency would be designated as the lead agency.</li></ul>	<ul style="list-style-type: none"><li>• Participating state agencies will designate one state agency as the lead agency to facilitate coordination and eliminate confusion.</li><li>• A joint RFP template will be developed.</li></ul>

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<b>Planning Activities</b> Conducting planning activities changes from optional to mandatory. Length of the contract determines minimum frequency of planning activities. (Reference: §§3-142-301, 3-142-302, HAR)	<ul style="list-style-type: none"><li>• Responses received were in support.</li><li>• One expression of concern about “over planning” as the state agency already conducts planning activities.</li></ul>	<ul style="list-style-type: none"><li>• If planning occurs there will be no additional requirements other than documentation.</li></ul>
<b>Public Notices</b> Changes the requirement from publishing in the newspaper to posting on the web at a central location. Public notices in the newspaper will be optional. (Reference: §§3-143-202, 3-144-203, 3-145-202, HAR)	<ul style="list-style-type: none"><li>• Responses were unanimously in support of posting to the web.</li><li>• Ease of having all notices in one place.</li><li>• Cost savings and ability to issue an RFP a little faster.</li><li>• Concern from two neighbor island rural areas for small providers who may not have access or are not very knowledgeable of the Internet.</li><li>• One suggestion of a long transition period.</li></ul>	<ul style="list-style-type: none"><li>• Public informational meetings are introducing the concept well in advance of implementation.</li><li>• SPO will utilize its database of over 1,100 private providers to notify providers of the Internet-only posting prior to implementation.</li><li>• State agencies will be encouraged to contact small providers prior to implementation of Internet-only posting.</li><li>• Public notices of the Internet-only posting of procurement notices will be placed in local newspapers prior to implementation.</li><li>• Administrative rules will encourage state agencies to utilize local newspapers as an additional resource when services are targeted for rural areas.</li></ul>

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<b>Competitive Request for Proposals</b> Increases the minimum number of days from the date a public notice is first posted to the submittal deadline for proposals from 21 to 28 days. Establishes a procedure for posting RFPs on the Internet at a central location. (Reference: §3-143-202, HAR)	<ul style="list-style-type: none"><li>• At every public informational meeting, placing RFPs on the Internet was unanimously endorsed.</li><li>• Several private providers asked if the period of availability of RFPs could be increased to 28 days as well as the notice.</li><li>• One comment that extending the public notice from 21 to 28 days would slow the RFP process for one week.</li><li>• One comment received after the meetings that placing RFPs on the web should be optional for state agencies as it increases workload.</li></ul>	<ul style="list-style-type: none"><li>• Proposed amended rules will be further amended to state that the number of days from the date an RFP is first available to the proposal submittal deadline shall be a minimum of 28 days.</li><li>• The head of a purchasing agency may approve a request to shorten the time of the public notice for good cause.</li><li>• Less time and money will be spent making hard copies of RFPs thus compensating for any increased workload of posting RFPs.</li></ul>
<b>Exempt Procurements</b> Establishes a procedure whereby prior to any action by the chief procurement officer, requests for exemption and notices of intent to make an exempt purchase are posted on the web at a central location for a minimum seven days. Status of the requests will also be posted.	<ul style="list-style-type: none"><li>• Comments received were in support.</li><li>• One concern that it would slow down the speed at which client treatment could be delivered.</li></ul>	<ul style="list-style-type: none"><li>• A provision will be made for “rush” requests.</li></ul>

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<b>Restrictive Purchase of Service</b> Establishes a procedure for posting requests for restrictive purchase of services and the notices of restrictive purchase of service on the web in a central location prior to any action by the chief procurement officer. Status of the request will also be posted. Publishing the notice in the newspaper becomes optional. Establishes a procedure for requesting an amendment to a restrictive procurement. (Reference: §3-144-203, HAR)	<ul style="list-style-type: none"><li>• All comments received were in support.</li></ul>	<ul style="list-style-type: none"><li>• No change to the proposed amendment at this time.</li></ul>
<b>Treatment Method of Procurement</b> Establishes a procedure for posting treatment awards on the web in a central location. The posting will include, at a minimum, the provider name, service and contract funding amount. (Reference: §3-141-503(c), HAR)	<ul style="list-style-type: none"><li>• All comments received were in support.</li></ul>	<ul style="list-style-type: none"><li>• No change to the proposed amendment <b>at</b> this time.</li></ul>

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<p><b>Proposal Evaluations</b> Requires an explanation of numerical scoring to be included in the statement of findings and decision. (Reference: §3-143-205, HAR)</p>	<ul style="list-style-type: none"> <li>• Comments received were in support.</li> <li>• Comments that explanation will assist applicants in understanding the scoring</li> <li>• Helpful in indicating how applicant might improve.</li> <li>• A few questions as to the depth of the explanation.</li> <li>• One comment on scoring when the same proposal submitted for several geographic areas and different scores were received.</li> <li>• Requests for training the evaluation committee.</li> <li>• One comment that it added to labor costs but supported the idea.</li> </ul>	<ul style="list-style-type: none"> <li>• Rationale for scores must be part of the procurement file.</li> <li>• Applicants should know the rationale for their scores.</li> <li>• Inclusion of explanation of scores will clarify apparent discrepancies when proposals are similar and evaluated by different evaluation committees.</li> <li>• SPO will continue to provide training and technical assistance with evaluation procedures.</li> <li>• SPO will include ‘training the evaluation committee’ in annual training.</li> <li>• Provision for topics in which evaluators must be trained will be included in proposed amended rules.</li> </ul>
<p><b>After-the-Fact Secondary Purchases</b> Establishes a monetary cap of \$75,000 on after-the-fact secondary purchases. (Reference: §3-143-608, HAR)</p>	<ul style="list-style-type: none"> <li>• Comments from private sector unanimously in support.</li> <li>• One comment asked why it was being capped.</li> </ul>	<ul style="list-style-type: none"> <li>• Purpose of after-the-fact secondary purchases is to allow a purchasing agency to utilize another agency’s procurement for a one-time relatively small purchase. A multi-year request amounting to several hundred thousand dollars is contrary to the intent of Chapter 103F to promote open government and fair competition.</li> <li>• Planned secondary purchases and joint</li> </ul>

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		requests for proposals may be used for larger purchases.
<b>Procurement Violations</b> Establishes a procedure for processing procurement violations.	<ul style="list-style-type: none"><li>• All comments received were in support.</li></ul>	<ul style="list-style-type: none"><li>• No change to the proposed amendment at this time.</li></ul>
<b>Other</b> Additional general comments.	<ul style="list-style-type: none"><li>• Praise for the meetings and the SPO website;</li><li>• Desire for more training</li><li>• Concerns expressed by providers on payment methods and contracting procedures.</li><li>• Requests for workshops on writing RFPs and conducting uniform proposal evaluations.</li><li>• Request for longer contracts (four years rather than two years);</li><li>• Requests for a guaranteed minimum payment or number of referrals when the referring source is the state, as sufficient referrals may not be made and the provider loses money.</li><li>• Concern over the costs of closing a contract and transitioning files when there is a change of provider and adequate advance notice is not given. Request that requirements of</li></ul>	<ul style="list-style-type: none"><li>• Workshops are ongoing and conducted annually. Workshop content will be modified to reflect comments received.</li><li>• Payment and contracting concerns regarding payment methodologies and underbudgeted costs have increased as resources have decreased and other sources of funding are no longer available for providers. Reasonable payment issues will be addressed in the next draft of proposed changes to rules and a revised RFP template.</li><li>• Workload issues and accountability are a concern for everyone. The head of the purchasing agency may approve a waiver of planning and RFI activities upon a written justification and determination it is in the best interest of the state to procure without planning.</li><li>• Administrative rules already permit contracts for up to six years. Budgeting</li></ul>

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	<p>maintenance of client files should be addressed in the RFP</p> <ul style="list-style-type: none"><li>• Request that consideration be given to all procurements (including restrictive and exempt) as to whether the community actually needs the service.</li><li>• Request that previously optional procedures (RFIs, planning activities, posting of RFPs) should remain optional, as it is difficult to keep up with work required for procurement activities.</li></ul>	<p>cycles and funding concerns affect a state agency's decision in determining the length of a contract.</p>